



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
First Regular Session

Senate: ED DP 4-2-1-0 | 3rd Read 16-14-0-0

House: ED DP 6-4-0-0

SB 1040: public schools; restrooms; reasonable accommodations

Sponsor: Senator Kavanagh, LD 3

House Engrossed

Overview

Requires a public school to provide a reasonable accommodation to a person who is unwilling or unable to use specified facilities designated for their sex in a public school building or multi-occupancy sleeping quarters while attending a public school-sponsored activity.

History

A *public school* is any public institution that offers instruction to students in preschool programs for children with disabilities, kindergarten programs or any combination of the 1st-12th grades ([A.R.S. § 15-101](#)).

The Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities in certain areas, such as employment, state/local government services, public accommodations, transportation and telecommunications. Buildings open to the public, including public schools, are required to meet ADA guidelines ([28 C.F.R. § 35](#)).

Provisions

1. Mandates a public school, upon written request, provide a reasonable accommodation to any person who is, for any reason, unwilling or unable to use:
 - a) a multi-occupancy restroom or changing facility designated for their sex that is located in a public school building; or
 - b) multi-occupancy sleeping quarters while attending a public school-sponsored activity. (Sec. 1)
2. Specifies a reasonable accommodation:
 - a) includes access to a single-occupancy or employee restroom or changing facility; and
 - b) excludes access to a restroom or changing facility designated for use by individuals of the opposite sex while individuals of the opposite sex are, or could be, present. (Sec. 1)
3. Allows a public school to adopt necessary policies to accommodate individuals protected under the ADA or young children who need physical assistance when using public school restrooms or changing facilities. (Sec. 1)
4. Grants a person a private cause of action against a public school if their written request for a reasonable accommodation is denied, unless the public school can demonstrate that the accommodation would cause an undue hardship. (Sec. 1)
5. Stipulates that if a public school gave a person of the opposite sex permission to use a restroom, changing facility or sleeping quarters, a person has a private cause of action against the public school if they:

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

- a) encounter the person of the opposite sex in the multi-occupancy restroom or changing facility designated for their sex; or
 - b) are required by the public school to share sleeping quarters with a person of the opposite sex unless they are of the same family. (Sec. 1)
- 6. Requires claims to be brought in superior court in the county where the person resides or the public school is located at the time of filing. (Sec. 1)
 - 7. Mandates all civil actions be initiated within two years after the alleged violation occurred. (Sec. 1)
 - 8. Authorizes aggrieved persons who prevail in court to recover:
 - a) monetary damages for psychological, emotional and physical harm suffered; and
 - b) reasonable attorney fees and costs. (Sec. 1)
 - 9. States other remedies at law or equity that are available to the aggrieved person against the public school are not limited. (Sec. 1)
 - 10. Defines *family*, *changing facility*, *restroom* and *sex*. (Sec. 1)
 - 11. Cites this act as the *Arizona Accommodations for All Children Act*. (Sec. 1)